

REMARKS

Claims 1 through 23 are currently pending in the application.

This amendment is in response to the Final Office Action of October 20, 2006.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on U.S. Patent 6,104,311 to Lastinger in view of U.S. Patent 5,777,581 to Lilly et al. and U.S. Patent 6,310,579 to Meredith

Claims 1 through 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lastinger (U.S. Patent 6,104,311) in view of Lilly et al. (U.S. Patent 5,777,581) and Meredith (U.S. Patent 6,310,579). Applicant respectfully traverses this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

Applicant asserts that the effective filing date of the present application is April 26, 2000 as the present application is a divisional of parent patent application serial No. 09/558,581, filed April 26, 2000 (See specification paragraph number [0001]).

Applicant asserts that the rejection of claims 1 through 23 as being unpatentable over the Lastinger reference in view of the Lilly et al. reference and the Meredith reference under 35 U.S.C. § 103 is improper because the Meredith reference is not prior art to the present application as the filing date of the Meredith reference is May 12, 2000. Applicant asserts that the Meredith reference is not prior art under 35 U.S.C. § 102 or 35 U.S.C. § 103 to the present application for any purpose. Accordingly, Applicant requests the rejection of claims 1 through 23 be withdrawn as improper.

Since in the Office Action it is evident that any combination of the Lastinger reference in view of the Lilly et al. reference and the Meredith reference under 35 U.S.C. § 103 does not teach or suggest all the claim limitations of the claimed inventions of the present application to establish a *prima facie* case of obviousness, claims 1 through 23 are allowable.

Applicant requests the allowance of claims 1 through 23 and the case passed for issue.

Respectfully submitted,



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